Reengineering of Local Governance in the Post-Conflict Situation in Nepal

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Published in the Journal of
Contributions to Nepalese Studies (July 1, 2007), Vol 34, No. 2, Centre for Nepal and Asian Studies, (CNAS), Tribhuvan University, Kathmandu, Nepal

Link for free download:
http://www.thefreelibrary.com/Contributions+to+Nepalese+Studies/2007/July/1-p5289

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1. Introduction

1.1 Background

This article is written based on my empirical research carried out in the Nepalese political setting while the country was undergoing a serious political power struggle and armed conflict (2002-2005). It is a qualitative research carried out in the context of local governance system and practices. The field work was carried out in Kavre-Palanchowk district, Nepal as a case study. A case study analysis of the district of Kavre-Palanchowk in Nepal focuses on the relationships between local and central government and between local communities and local governments. On this basis, recommendations with relevance for Nepalese policy-making and governance more generally are developed.

The research explores and analyses a number of critical issues within the broader theoretical framework of the research (i.e. power and participation). It explores the existing local governance practices from the perspective of democratic participation of citizens while power and participation provide the theoretical framework. Here power is understood and defined as political power that is generated through political representation and the stake in the governance processes. The research also explores the contradictory aspects of representative democracy at the local level and participatory planning (which entails the principle of participatory democracy) as well as the implications of these contradictions in the overall local governance practices.

After the completion of the research Nepalese politics has undergone a lot of upheavals. The King gave up control over the reins of political power by re-instating the Parliament (April, 2006) and the Communist Party of Nepal (CPN-Maoist) declared an end to the 'People's War' (*Jana Yuddha*) and CPN-Maoist is in the process of joining competitive politics. Standing on the key theoretical findings of the research (2005) outlined above, this article examines the application of representative democracy in the current political context of Nepal (April, 2006-February, 2007)[1] in the light of sharing power through broader stakeholders' participation and inclusiveness, and opportunities for bringing the government closer to the citizens, thereby increasing popular participation in day-to-day governance activities.

This article discusses the key findings of the research relating with the changing political contexts and emerging key governance issues. At the end, the article recommends key strategies for mitigating political conflicts and promoting grassroots democracy through local governance practices in the changed political context of Nepal, where CPN (Maoist) are also in the process of becoming a part of mainstream competitive politics.

The major questions discussed in the paper are:

1. What are the reasons behind the demand for participatory democracy in Nepal?
2. What are the critical factors to be considered while designing the local governance system in order to achieve the objectives of sustaining peace and strengthening participatory democracy at the local level?

Thus the paper builds in and around searching answers to these questions. The subsequent chapters deal with each question accordingly.

1.2 The Context and Relevance

This section deals with the first question: 'What are the reasons behind the demand for participatory democracy in Nepal? The discussion starts with the current political context of

Nepal and also the growing issue of identity politics, which is challenging the ideology-based party politics.

1. Peoples' Pro-Democracy Movement-II, 2006

Continuously defying the curfew, millions of aggressive Nepalese in the streets of Kathmandu and district headquarters protested to end the King's autocratic rule and demand long lasting peace and more democratic rights to the people through an overarching political agenda – the 'constituent assembly'. About two dozen people lost their lives during the political movement, which is popularly known as *Jana Andolan II* (pro-democracy movement II).

These pro-democracy demonstrations and a continuous general strike across Nepal for 19 days marked not only the desire for peace and democracy but a decisive shift in the country's political equations, ending King Gyanendra's autocratic rule. This political movement proved that a few weeks of peaceful demonstrations could be more powerful and decisive than the decade-long armed movement led by the CPN (Maoist).

The majority of the people taking part in the protest rallies in Kathmandu were from the rural areas, mostly youth. It was observed that often it was those who were powerless who demanded democracy, those who owned neither land nor large enterprises, those who had less education, lower pay, and thus, less influence over contemporary politics and development. This clearly showed the mounting dissatisfaction against the King's autocratic rule and the people's deep-rooted desire for peace and democracy - a fruitful democracy that really help improving their livelihoods. Therefore, the movement was not only limited to the mission of ending the autocratic rule of the King, but also to demand for long lasting peace through more inclusive democracy which guaranteed them 'to serve not only be ruled' so as to improve their livelihoods. "The international community also offered considerable moral support to Nepal in its search for peace and democracy. It must now get ready to translate that support into practical, coordinated and complementary efforts to deliver a viable peace process" (ICG: 2006).

Thus, the more than six-decade long (starting from the 1940s) pro-democracy movement of Nepal affirms the truth of the statement "Democracy is not something a society 'gets'; democracy must be fought for each and every day in concrete instances, even long after democracy is first constituted in a society. If citizens do not engage in this fight, there will be no democracy" (Flyvbjerg 1998: 5).

2. The Politics of Identity, Self-Governance and Inclusiveness

Nepal is a country of spatial, ethnic and cultural diversity. The Nepalese are very proud of their ethnicity and diverse cultures. Therefore, equal social, cultural and political rights and equal respect to each social group are to be maintained as their fundamental rights, not as gratis. However, access to political, economic and administrative opportunities is not equal for all the social groups. There was a hope in the 1990s that equal access to opportunity and equality would be promoted under multi-party democracy. But the power relations did not changed notably even after the restoration of multi-party democracy in 1991. The institutional structure of governance lacked adequate sensitivity to respond in a meaningful manner to the ethnic, cultural and religious diversity, equity and spatial concerns of the country. Thus, the armed political conflict (Maoist movement) was not only a product of political and ideological dissent, but was also largely interwoven with dissatisfaction and reaction towards a centralised system, poor governance, exclusive democratic practices, growing unemployment and mass poverty (Adhikari 2006: 91). The newly approved Interim Constitution, 2007, following the political settlement with Maoists, was not able to satisfy all in addressing the social, cultural and spatial concerns. Therefore,

Madhesis[2] and *Janajatis*[3] (ethnic groups) initiated a new movement against the newly agreed Interim Constitution since the next day of its announcement.

The cumulative dissatisfaction of *Madhesis* and *Janajatis* and other marginalised groups in particular has given rise to identity politics (January - February, 2007) based on demands for autonomous and inclusive local-self governance and proportional representation in the national politics. This situation has pushed the political authorities (the eight political parties sharing power) to realise and concede the pitfalls of the contemporary practices and weaknesses of the new Interim Constitution. Almost all political parties and civil society organisations sympathise with their concerns and aspirations. Less than two months after it was promulgated unanimously, the Interim Constitution has been subjected to the first amendment. The legislative parliament approved the proposal to pass the First Amendment Bill by overwhelming majority. When the Speaker put forth the proposal – prepared after extensive consultations among eight political parties and incorporating the February 7, 2007 address by the Prime Minister to placate the agitated *Madhesis* and *Janajatis* – for approval, it received 278 votes in favour and only 5 in opposition (March 2007).

The First Amendment of the Interim Constitution clearly sets out that – a) the country will move towards a federal democratic structure through the Constituent Assembly (CA); b) CA polls will be held according to mixed-proportional system; c) constituencies will be reconstituted based on increased population in Terai; and d) all marginalised communities like *Madhesis*, *Janajatis*, *Dalits*[4] and women will be included at all levels of the state proportionally.

Civil society organisations and major political parties from the *Madhesh* welcomed the amendment and stopped their protests; however, *Janajatis* and few agitating groups from *Madhesh* have said that the amendment is not sufficient enough, further continuing their protest programmes.

Thus, currently, Nepal has been undergoing a very delicate political transition. A successful popular movement could advance the search for peace but lasting peace, stability and good governance will depend to a great extent on a strong and visionary political party leadership capable of dealing with all the political forces, including the CPN (Maoists), *Madhesi* and *Janajatis* in order to address their genuine political demands, on the one hand and growing anarchy and the endless demands of different groups, on the other. If these vexing issues are not settled to the satisfaction of those raising them and the rule of law is not restored in time, a messy transition would bring its own serious risks, including more political uncertainty, fear and insecurity leading towards serious civil war threatening national integrity. If this happens, unfortunately, restoring peace and ensuring the protection of civil liberties through the democratic process (i.e. CA election) will be far from reach at least for a few years more.

2. How should Local Governance in Nepal be Designed?

The first section of this chapter (section 2.1) deals with the critical issues of local governance with special reference to Nepal. These issues are the key findings of a research (2002-2005) carried out in the local governance context of Nepal before the political changes took place in the country[5]. The second section (2.2) analyses the specific issues in the changed political context (Jan-Feb, 2007) of the country and it suggests some important aspects to be considered while designing the local governance system in the country to strengthen grassroots democracy in the post conflict-political scenario of Nepal.

2.1 Learning from the Past: Critical Local Governance Issues in Nepal

The aim of discussing these issues here is to consider the learning of the past in the process of redesigning the local governance system in Nepal.

1. Participation and Representative Democracy do not Blend Well: A Nepalese Case

Nepalese experiences show that participation and the representative model of democracy do not blend well at the local level. It is found that managing participation in local planning and governance activities within the existing legal framework (Local Self-Governance Act, 1999) and structure of local bodies[6] in Nepal, which adopts representative model, is a very challenging task. As part of the legal provision, participatory planning has been practiced for the last several years, but it is not inclusive enough either at the district level or even at the village level. It is in some way or other degenerating into an elite-dominated idea in recent years, since local stakeholders, civil society organisations and local communities in particular, are getting increasingly less motivated when it comes to participating in the participatory planning process.

At the theoretical level, participatory planning generates rationality power, thus limiting the discretion power of the executive chief of the local bodies. Elected representatives are deemed to be open-minded and willing to adopt a collaborative approach toward planning, if they want to respect the collective decisions of the stakeholders. If they do not, logically designed bottom-up planning remains wishful thinking as long as the political leaders and development professionals do not respect its true spirit, which is the case in Nepal. Therefore, institutionalising a participatory planning process is a crucial task in the context of the existing decentralisation policy, institutional and representative democratic framework at local level. Thus, participation, the very essence of a representative form of democracy, is in a dilemma in reality.

2. Vibrancy of Democratic Institutions at the Local Level

The institutional and social fabrics are very vibrant at the local level in Nepal. The grassroots level local government units in particular, are highly respected by the local communities. Although there are some critical areas requiring improvement, the local communities strongly believe that the elected representatives advocate better than any agencies do (Adhikari 2006: 288).

After the expiration of the term of office of the democratically elected local bodies, the government had decided not to extend the term of office of elected representatives (2002) but instead started nominating political appointees to the posts. However, the legitimacy of nominated political appointees was found missing, and the local people have a strong feeling that outgoing elected officials are still their representatives. The people have strong faith in local government units as democratic institutions at the local level. Many of the outgoing elected officials are quite active in their own way and still feel responsible and accountable to the local communities.

Thus the institutional vibrancy and community's loyalty to democratic institutions at the local level was found to be very strong in the case district of Kavre, Nepal. This is a very positive factor for successful local democratic governance. But it may get weaker if local elections do not take place within the next one to two years. This is to say the popular base and image of local bodies might be lost over time and space (Adhikari 2006: 288-289).

3. Free from the Elite Capture and Inclusive Practices

Although the political elite remain powerful, their power can be increasingly checked and they can be made more accountable by an active citizenship willing to have some degree of participation in political power (Bresser-Pereira 2004: 1). Decentralisation does not bring effectiveness, equity and efficiency if the social structure, attitude and cultural aspects of officials involved in dealing with decentralised functions are not considered in designing and implementing decentralisation policy. It may not bring positive results if the empowered participation of citizens is not equally considered and truly implemented through appropriate mechanisms at the local government level. In these cases, decentralisation may also become prone to elite capture and may increase inequality, discrimination and conflict. Therefore, social empowerment, establishing a mechanism for social accountability at the local level, through strengthening community-based organisations and the civil society, can make government officials more accountable towards citizens, and thus, representative democracy can become more participatory and accountable. Furthermore, enhanced citizens' participation is to be understood "not just as means to more effective service delivery but as important in its own right because of its potential for personal empowerment and active citizenship" (Eyben 2004: 19).

Generally, local elites are well placed in societies like Nepal where a centralised system has been practiced for centuries. People have been gradually getting politically aware regarding their rights, but they have limited access to administrative and political structures in practice. The local elites manipulate the administrative and political system upon which "the poor depend for their livelihood and for access to anti-poverty schemes; formal processes of decentralisation may do little to reduce informal forces of domination" (Jenkins, 2002 in Mosse, 2004: 52). Thus, local elites are likely to retain control over power and resources and capture the benefits of decentralisation in the early stage of the decentralisation process; therefore, participation is crucial to minimise the effects of capture.

Social mobilisation has been found to be a very practical strategy to strengthen meaningful participation of the citizens in governance activities, with their inherent strengths, dignity and stake. Therefore, the devolution process (shifting power from the centre to the local government's level) and social empowerment (generating power from the community) have to be equally considered in designing decentralisation and practicing a decentralised policy framework. The first creates democratic institutional avenues (local governments), while the second creates a suitable environment for empowered participation. Both together ensure success in democratic local governance.

Moreover, a power shift on an institutional basis (from central to local governments) without increased citizens' participation (including all segments of the community) and without clear accountability mechanisms is likely to increase dependency of the local community on the government institutions, and further reinforce elite culture. In this way, there is a high chance of promoting social hierarchy in the society in a country like Nepal which may lead to deep social conflicts in the long run.

4. Participatory Development and Local Democracy

Participatory local planning becomes effective and functional when the true participation of all key stakeholders is encouraged, facilitated and institutionalised to ensure closer access of the citizen. Local communities and other stakeholders can play a crucial role in institutionalising the power generated through dialogue and discussion (rational power), which will ensure that the local government responds to their needs in an accountable manner. They can do this effectively by participating in the planning, implementation, monitoring and evaluation of development activities affecting their lives.

Participatory planning inclusive of all segments of society and local stakeholders generates strong rationality power and makes local governments more responsive and accountable to the local people, thus reducing elite capture and strengthening local democracy. Civil society organisations and community-based organisations are instrumental in promoting participatory development specifically in a country like Nepal where a centralised culture prevails and democratic and participatory approaches have not yet become part of the institutional culture, let alone come into effective enforcement. Civil society organisations help to break the elite capture in local governance systems and transparency in decision-making makes a real difference in promoting participatory local governance practices. Participation in the planning process is a must if implementation is to be successful. It leaves consensus as the basis for successful implementation and avoids controversy or bottlenecks in the implementation stage.

It is obvious that the stakeholders participate in planning and development activities when there is some specific and tangible interest for them. Actual participation of grassroots stakeholders in local government processes, including planning, depends on many factors. *First*, the system of representation in the different levels of government and the electoral system provide the main avenue for citizens' participation. *Second*, if an avenue is available in the legal framework of local government – how is it enabling the framework? Such a framework includes the freedom of assembly, speech and media that make it possible for citizens to get organised, get information and project their ideas and views. The right and easy access to information about government processes is of particular importance in assuring transparency and accountability to the local people. *Third* is the attitude and behaviour of responsible officials and authorities towards participation. *Fourth* is the degree of political decentralisation which offers rights to participate, avenues to participate and other opportunities. *Fifth*, how participation is understood by local governments and stakeholders and how it is practiced in reality.

5. Weak Institutional Capacity and Limited Fiscal Decentralisation

The first and foremost challenge for effective decentralisation and local governance in the past was the weak capacity of local bodies. Local autonomy is greatly restricted by a weak absorbing capacity and increasing dependence on central transfers. In this context, local government institutions need technical support for mobilising internal resources.

The weak capacity of the local governments has meanwhile ruled out any chance of benefits from the decentralisation train as envisioned in the policy and legal frameworks. The problems lie not only in the weak capacity of local governments but also in the lower level of awareness and organising capacity of citizens. "Creation of opportunities for direct self-governance does not imply that citizens will imbibe capacities necessary to utilise them, neither does it mean that they will actually participate; some may not know and others may know but not care to join" (Grinc 1994 in Fung 2004: 74 in Adhikari, 2006: 286). Capable citizens and local partners (CBOs, local NGOs and other civil society organisations) make locally elected representatives more responsive, transparent and accountable towards their constituents, and thus promote local democracy.

It came out very clearly during the focus group discussions (in the case district – Kavre) that, firstly, socially and economically marginalised people have problems in understanding and

following what exactly is going on in their neighbourhood. Secondly, if they participate, their views are rarely considered during the discussion and public gatherings. Thirdly, they have pressing problems of daily livelihood and thus cannot afford to participate until and unless they get instant direct benefits. Raising awareness, building capacity and promoting meaningful participation of all sections of the community in governance activities is a crucial element and a regular agenda of local governance reform. The government in the past, however, did not take any significant initiatives to develop the overall governance capacity of local institutions.

One of the important lessons from the past is that local governments were over-burdened with obligations to perform functions and provide services for which they lacked have adequate revenue or training. A clear delineation of tasks among the different levels of government is crucial for effective fiscal decentralisation. Fiscal decentralisation enables overall decentralisation to function, but is very limited and weak in Nepal. The tasks and responsibilities overlap both at vertical and horizontal levels. Revenue assignments are not directly linked with assigned tasks and responsibilities. Over-dependency of the local government on the central level for human and financial resources hinders the overall devolution process.

6. Unclear Accountability and the Fugitive Nature of Officials

Being a statutory requirement of a democratic system, the accountability factor has to be part of democratic custom and behaviour. It is normally established through the electoral process and other regular institutional mechanisms. An accountability mechanism generally has its own set of rules, procedures and due processes of consultation and evaluation.

One of the presumed benefits of decentralisation and power-sharing is effective accountability. However, in the context of the local government in Nepal, the accountability mechanism is not clear and effective enough. In fact, it has neither been clearly defined in the Local Self-Governance Act (LSGA) nor considered in practice. Collective decision-making and shared responsibility complicate the issue of accountability of the elected representatives. Indirect election procedures of the District Development Committee (DDC) officials diminish the democratic spirit of accountable local government. The key planners and development workers are clearly accountable to the central level and this further weakens the local democratic practices as it gives them enough space to dodge obligations and thus not be held accountable to the local people through the local government units.

One of the main reasons for weak accountability in the case district (i.e. Kavre) is the high resource dependency on the central level. Adequate fiscal resources generated locally create obligations among officials and force them to be transparent and accountable to tax payers. Thus, resource inadequacy and forced high dependency on the central level promotes central control, limiting local autonomy, weakening transparency and local accountability.

7. Parallel Structures and Decentralised Local Governance

The case study of Kavre confirms that the long-centralised traditional system of governance, weak conceptual understanding and unhealthy power play at the central level have culminated in the continued use of parallel modalities of decentralisation in Nepal even after the restoration of the multi-party system in 1991.

This has created a parallel institutional set-up from the centre to the grassroots through line agencies that duplicate similar functions at different levels. It has further complicated responsibilities and created dualities in the accountable mechanism, complicated coordination at district and central levels, and pushed back the entire process, the outcome being poor performance in terms of plan implementation, while ultimately making decentralisation ineffective in bringing about significant results.

There is a danger if the decentralisation or power shifting process takes place through different levels of government units or institutional ladders. In this case, decentralised power might be absorbed by an intermediate level of government and that level might try to create new power centres instead of trickling down the power to the lower levels. This is one of the reasons that a bottom-up structure of local government is extremely important from the standpoint of exercising democratic power, service delivery, resource mobilisation and overall governance perspective.

8. The Tendency of Power to Exclude Minority Groups

In the early stage of democratic practices, democratic institutions are likely to be elite-dominated, and power tends to be captured by these elite groups offering popular slogans. Therefore, it is important to ensure the provisions of broader participation in local governance that checks elite capture in practical terms. The centralised tendency of democratic institutions (local bodies and political parties), however, while practicing a decentralised policy framework and exclusion of social or cultural groups may erode the legitimacy of the leadership and the entire governance system in the long run. It may also create divisions in society, even leading to violence in reaction to the exclusionary governance practices. The case study of Kavre, Nepal clearly shows such tendencies.

In his study Lawoti (2004) finds that the overall impact of Nepali polity is exclusionary. He notes: "Nepali polity lies in the majoritarian corner; it is not inclusive." Also, individual institutions are not inclusive (even though some shared power under the multi-party system) since all major parties are controlled by certain castes from the hill regions who are Hindus and from elite groups, even as much of it is in the hands of males. It rules out power-sharing among groups. Hence, the conclusion of Lawoti shows that the "overall impact of the polity is exclusionary" (Lawoti 2004 in Adhikari 2006: 291).

9. Power Uses Rationality to Further Strengthen Power

The research reconfirms Flyvbjerg's theoretical proposition and finds that power uses rationality as a strategy to further strengthen power, but largely ignores the sprit of rationality. In the case district (Kavre, Nepal), rationality has been used as a strategy to boost political power (Adhikari 2006: 292). Thus, this research confirms Flyvbjerg's statement which runs "Rationalisation presented as rationality is a principal strategy in the exercise of power" (Flyvbjerg 1998: 228).

Flyvbjerg (1998) explains the relationship between rationality and rationalisation as a "'front-back' relationship. 'Up front' rationality dominates frequently, as rationalisation is presented as rationality. The front is open to public scrutiny, but it is not the whole story and, typically, not even it's more important part. Backstage, hidden from public view, it is power and rationalisation which dominates" (ibid: 228). The hidden 'back stage' creates challenges to democratic culture.

10. Nepal's Decentralisation is Prone to Recentralisation

Power-sharing is a very difficult process. It is further complicated when a country has a long history of an authoritarian or centralised politico-administrative system. When a decentralisation process is adopted, and once power is shifted from one level to another or to another organisation, then it might be held by the next tier where power is decentralised. This may happen quite frequently in the early stage of the decentralisation process. In the case of Nepal, the phenomenon of Kavre District Development Committee (DDC) being a more centralised institution is a cogent example. Advocacy for more decentralisation from the centre has always been the slogan in the DDC and the District Council meeting. But the DDC itself has failed to decentralise power to Village Development Committees (VDCs) and other institutions, and builds its own image as a

centralised institution. The fact that practice shapes local democracy applies in this specific case, too.

Hence there are always chances of recentralisation, as political and bureaucratic resistance remains unabated. Weak local capacity can be one of the timeless reasons and good excuses for central level bureaucracy to insist on recentralisation. Incompetent bureaucracy and less competitive politics generally do not favour decentralisation; these perceive decentralisation as a threat to their traditional empire. This explains why the bureaucracy and centralised politics resist anything which approaches them in the implementation stage of a political decision, including the implementation of the Local Self-Governance Act (LSGA), 1999 as a case in point. The Act was passed amid resistance from technical ministries while the political parties were highly motivated from their own standpoint. In the early stage of decentralisation, visionary and proactive political leadership can break through resistance against decentralisation; however, such examples cannot be cited in the Nepalese context.

2.2 Specific Issues in the Changed Political Context

1. Bringing Government Closer to the Citizens

In Nepal and or in many other developing countries, the central issue of local governance is how to bring government closer to the citizens? "When government is closer to the people, it is more likely to be held accountable by them for its success and failures in the provision of basic services, the maintenance of order, and the fair resolution of local issues and disputes. Government tends to be more responsive when it is closer to the people. This is why democracies are increasingly embracing the principle of subsidiarity: that each government function should be performed by the lowest level of government that is capable of performing that function effectively (Diamond 2004:2). Devolution is not only a process of granting functions, authority and resources, it is a process of creating or strengthening government and bringing it closer to the citizens to create opportunities and offer avenues for empowered participation.

There are other democratic benefits of multiple layers of elected government, as in a federal or politically decentralised system. "Lower levels of elective office can constitute an arena for training and recruiting new political leaders, including women and young people who have not previously had a role in political life" (Diamond 2004: 2). Democratic practices at multiple levels of government provide a more accessible means for citizens to become active in public affairs. These induce citizens to question their local officials, monitor what they do, present their interests and concerns, and to learn the skills and values of democratic citizenship. These make citizens prouder of being a part of the democratic system. "Typically, it is difficult for most citizens and organised groups to get access to the national parliament or the central ministries. They need decentralised opportunities for access to decision-making power. And those points of local access are more likely to be responsive if they are accountable to the people through elections" (Diamond 2004: 2). These arrangements and democratic practices simultaneously promote democracy at both levels, national as well as local, which makes a critical difference. However, too many layers of government may result in loss of democratic spirit.

2. Restructuring of Local Self-Government and Promoting Grassroots Democracy

Gautam argues, "Nepal has witnessed several governments in the past, but their approach to governance has remained more or less the same; that is, governments of the few, by the few, and for the few and that the citizens do not deserve to be served but they deserve to be ruled" (Gautam 2007).

The political movement of 2006, thus, proved that democracy has been a major concern and a way for those of slender means to gain more power and improve their living conditions through increased stake in governance. It is not possible to discuss the entire architecture of local government in this article, therefore, only a few critical aspects have been briefly discussed here.

Making the Size and Structure of Local Government Viable

The current size, territory and number of local government units are not viable from the perspective of service delivery, planning and governance, therefore, these aspects have to be reviewed and adjusted based on scientific reasoning, planning and governance perspective. The existing districts and village boundaries were created more than four decades ago merely from the standpoint of having top-town administrative control and revenue generation without taking account into service delivery and promoting local democracy through local government structures. There have been many changes related to political understanding, accessibility and other socio-economic indicators in subsequent years.

Bottom-Up Design, not Top-Down

Past experiences in Nepal have shown that devolution of authority and resources through top-down structure does not work effectively. There is a danger, if the resources or power shifting process takes place through different levels of government or institutions. In this case, decentralised power is more likely to be absorbed and or manipulated by an intermediate level of government (district in Nepal's case), both undermining and underestimating the responsibility and capacity of the grassroots level unit. In this case, the intermediary level tries to create new power centres instead of trickling down the power to the grassroots level local government units (Adhikari 2006: 288). "One of the criticisms of past governments in Nepal is their top-bottom design. In the changed context, a new thinking of bottom-up system of government is emerging. Since the local governments will constitute the foundation of the governance system, it is imperative that issues related to local government and governance be addressed with utmost urgency. It is an irony that the focus has been still on central and regional governments only, and local government and governance have received little attention by media, politicians, civil society, policy makers and political pundits" (Gautam 2007). Therefore, the district level has to be seriously considered in terms of whether to retain or eliminate that tier during the restructuring process.

Service Delivery from Neighborhoods

The research finds that the present structure of local government, particularly at the district level, is ineffective in delivering basic services and the district level local government unit (i.e. DDC) has not acted as a decentralised institution in practice.

Gautam (2007) emphasises local self-governance and efficient service delivery at the doorsteps of the citizens. He notes, "…the main concept is to establish a system of local governments to deliver services to the citizens, right in their backyard. This will eliminate going to district headquarters for minor issues, spending a lot of time to get there and then getting intimidated by government officers as if some outsider is ruling them. It will also help address issues like daily strikes, protests, demands and other forms of unrest that are plaguing Nepal. Under the proposed system, there is no one to demand from, there is no one to protest against but people will be demanding from themselves, protesting against themselves as they will be in charge of themselves (Gautam 2007).

Practice Shapes Grassroots Democracy

What is done in practice is more important than what is being said in the formal political sphere (Ludwig von Rochau in Flyvbjerg 1998: 6 in Adhikari 2006: 292). Real practice is more important in shaping democracy than 'formal politics' as Machiavelli says. Flyvbjerg calls it *Realrationalität* (Flyvbjerg 1998: 6 in Adhikari 2006: 292).

Democratic principles and ideals are important, but the day-to-day behaviour and practices of officials, local leaders, authorities and people shape the local democracy. There is discord between the formal rules and actual practices in many cases in Nepal. Double standards in behaviour and wider gaps between 'saying and doing' are a timeless challenge for local democracy in Nepal, as was evident in many instances during the study (Adhikari 2006: 292). Nepalese leaders must move from speech to action, minimising the gap between what they say and what they actually perform, to develop democracy as a meaningful foundation for the overall betterment of the living conditions of the people.

Participatory Democratic Practices

The people's revolution II and the Maoist movement highlighted the increasing demands of the neglected minorities, who want to have a voice and influence in decision-making at all levels. Given the socio-cultural heterogeneity of the country, the structure of local government should be more inclusive of *Madhesis, Dalits*, women and *Janajatis*. Propositional representation at the national level and broader participatory practices at the local level will meet the aspirations of the *Jana Andolan* II (People's pro-democracy movement II) in general and marginalised groups in particular.

Thus, an added value of participatory democracy at the local level becomes complementary to representative democracy at the higher governance level. One will not thrive without the other. These critical aspects have to be reviewed and re-adjusted from the local governance perspective. The representative model of democracy (but inclusionary) at the national level and/or provincial level and participatory democracy at the local government's level is suitable in the Nepalese context.

3. Decentralisation and Poverty Reduction: Establishing Positive Linkages

Although decentralisation has been a popular issue in recent decades, its relationship to poverty has only recently received attention. "The economic literature on poverty has largely ignored its potential importance in achieving poverty-reduction objectives such as the promotion of opportunities, empowerment, participation, security and rights for people who are poor and excluded at the local level" (von Braun and Grote 2002, Romeo 2002 in Jütting et al. 2005: 360).

A study recently carried out by the OECD Development Centre that reviews the decentralisation experiences of 19 countries from different parts of the world finds that "in only one-third of the cases decentralisation had a positive impact on poverty reduction. In the majority of the cases, decentralisation had no impact. More worrying is the finding that in countries where the state lacks the capacity to fulfil its basic functions and in environments with high inequalities at the outset, there is a definite risk that decentralisation will increase poverty, rather than reduce it. The authors conclude that the ambiguous evidence suggests that the link between decentralisation and poverty reduction is not straightforward and the outcome is largely influenced by country specificities, as well as process design (Jütting et al. 2004 in Jütting et al. 2005: 360).

Alsop and Norton (2004: 6) note, the positive association between decentralisation – as a logical outcome of democratisation – and poverty reduction in not yet proven, but many of us continue to advocate fiscal, administrative, and political decentralisation, citing pro-poor growth

as our justification." However, this does not mean that centralisation is the alternative to decentralisation. Rather it has to be designed carefully ensuring that the decentralisation process serves as an integral principle of local democracy, not merely an administrative tool. A switch from a technical to a political understanding of development is necessary to promote rights-based approach through which a linkage between decentralisation and poverty reduction initiatives could be established.

Nepalese experiences of decentralisation also show that there is no direct correlation between decentralisation and poverty reduction (Adhikari: 2006: iv). It is largely due to: a) decentralisation carried out on piece-meal basis and poor status of fiscal decentralisation, b) absence of pro-poor policy at the local level, c) centrally dominated macro-focused planning and development management, d) poor intra-party democracy and strong tendency of elite capture in the politics and bureaucracy of the country, e) overburdened and weak local government units, f) traditional legacy and less participatory working culture of the local government units, g) non-existent and/or weak network of civil society organisations (including media) in many parts of the country, h) hierarchical social structure complicated by the traditional caste system which imbalances the power relations and affect people's capacity to make effective choices and benefit from poverty reduction efforts, though limited. These critical social and governance issues need to be well addressed in designing the structure of the state for a new Nepal.

Interesting Cases of Two Indian States

There is an interesting comparison between the two Indian states - Madhya Pradesh (MP), which officially launched a radical programme of political decentralisation, and Andhra Pradesh (AP) which devolved powers to a lesser extent and adopted a populist approach to poverty reduction through line departments and parallel bodies, such as local user groups and self-help groups. A study (Johnson, Deshingkar, and Start 2003 in Mosse, 2004: 59-60) reached the following two interesting conclusions:

The first conclusion is that "political decentralisation in Madhya Pradesh has been less effective in addressing the needs of the poor than expected because of 'the failure to challenge [the] well-entrenched power of the village chiefs, the *Sarpanches*" (Johnson, Deshingkar, and Start 2003 in Mosse, 2004: 59-60). The government attempts to challenge the power of these authorities by empowering village councils (*Gram Sabhas*) and putting power back into the ruling party machinery through District Planning Committees failed. *Gram Sabhas* remain in the control of existing leaders, they have not increased political competition, and they are poor in resources and ineffective.

Similar to this case, the current research carried out in also proves that the government's decentralisation initiatives to promote local governance and local democracy through promoting participatory planning almost failed due to power coalition, vested political interests and elite domination in the planning and decision making process (Adhikari 2006: 225-227).

The second conclusion is that "despite a more limited process of political decentralisation in Andhra Pradesh (even some hostility to *Panchayati Raj*), the government's populist approach to development has empowered the poor in more effective ways. Contributing factors include: a) the Andhra Pradesh (AP) government's need to secure political support among its key constituencies (women, backward castes, agricultural labourers) especially in face of painful reforms" (Johnson, Deshingkar and Start 2003 in Mosse 2004: 60-61); b) programme delivery arrangements, which brought public officials close to the people even while weakening the *Panchayats*; c) creation of incentives for political participation through populist schemes delivered to the poor, which ensured better attendance and participation in AP *Gram Sabhas*, even thought they were bureaucratically controlled" (ibid).

These negative findings (decentralisation empowers local elites to capture the benefits of development and the resources from the poor) are "consistent with a stream of recent research emphasising that the existence of a strong center that is able and willing to resist the power of local elites (to earmark funds, support strong local staffing, and so on) is a necessary recondition for decentralisation" (Mosse 2004: 60-61). "The positive finding (populist, central programmes can empower) draws attention to the importance of wider political systems and electoral strategies for enhancing the political capabilities of the poor" (ibid). These arrangements and practices help democracy and poverty reduction programmes to be more mutually supportive.

Lessons from different case studies

To conclude, decentralised governance is unlikely to produce more pro-poor governmental performance unless there is strong support for pro-poor policies, resource provisions and vibrant and progressive civil society groups at the local level. Policy makers who are sincere in implementing pro-poor decentralisation have to consider the following aspects seriously.

1. Prepare and implement clear pro-poor policy.
2. Earmark or secure funding and 'ring fence' allocations to lowest tiers of local government unit.
3. Have the political will and capacity to prevent hostile local elites from sabotaging development and poverty-focused programmes that directly affect the livelihood of citizens.
4. Build the capacity of the local administrations and boost the morale of development workers to work in favour of poor and marginalised groups.
5. Broaden the participation of local stakeholders in governance activities.
6. Enhance the political capabilities of poor and marginalised groups to participate in governance affairs more meaningfully and advocate their needs and rights.

4. Power Relations and the Politics of Identity

Power relations in the society are always shaped by different factors, mainly the economic, social, institutional, administrative and political systems. "Power does not concern only people's actions and relations, but also the language, classifications, and organisations through which they are represented as interests and groups within political systems" (Gledhill 1994 in Mosse 2004: 55). "The power that people have (as individuals and groups) depends upon the capacity of others (for example, labour union leaders and party workers) to impose social classifications upon them and then speak on their behalf. It is the process of classifications that 'turns the group from a collection of individuals to a political force' (ibid in Mosse 2004: 55). In this view, "political parties or organisations do not reflect any naturally occurring classes, castes, ethnicities, and the like, but rather manufacture these categories through the process of determining who gets political representation. The party precedes the class struggle. Further, the political system is a professionalised field in which political capital is held in the hands of a few" (ibid in Mosse 2004: 55).

Effective representation not only includes political representation but also the identity issue that is often related to caste, religion, language or ethnicity. The recent (January – February, 2007) political campaign of *Janajatis* (indigenous ethnic groups) and *Madhesis* (resident of Terai/southern plain) in Nepal following the People's pro-democracy movement II (March-April, 2006) shows that it is also equally important to address the identity issue through the political process. If this issue is not addressed properly in a timely manner, there is a danger that it can be framed in 'communal' terms and may lead to violent identity politics. Unfortunately if this

happens, it might diminish ideology politics, thus limiting the influence and the role of political parties, and ultimately it may lead to disintegration of the country.

5. Federalism, Ethnic Conflict and the Issue of Local Self-Governance

What will be the appropriate model of federal system in Nepal is one of the top agendas in the current political sphere as principally federalism has already been approved by the legislative parliament. Many leaders, academicians and professionals, however, are concerned about the design of the federal system in Nepal. A legitimate fear of many who are wary of federalism is that, in context of deep-rooted ethnic and cultural diversity and regional divisions, it can lead to the break-up of this small country as in the former Soviet Union or the former Yugoslavia. Diamond argues in favour of devolution as he notes, "Divided countries have disintegrated at crucial moments precisely because they did not develop over time democratic means for the devolution of power that knitted groups together in a more authentic, voluntary, and legitimate political union. When groups are held together in one nation mainly by force and fear, anxious minorities may seek to secede at the first sign of a weakening of central government power" (Diamond 2004: 3). He further argues, "when the national government, under the fresh political circumstances that attend the formation of a new democratic system, makes an early and sincere grant of autonomy, the consequence is almost always greater stability and unity, rather than secession. This has been the case in India, Spain, Mexico, and Nigeria, for example. By contrast, countries like Sudan and Sri Lanka have paid a heavy price in civil war and massive violence for the failure to accommodate aspirations for devolution" (Diamond 2004: 3). He mentions, about a century and a half ago, the United States also fought a civil war to hold the country together, around basic principles of democracy, equality and fairness (ibid).

There are no consistent research findings assessing the relationship between ethnicity and conflict. Some research does find a positive relationship between degree of ethnic diversity and probability of conflict (Easterly and Levine 1997 in Siegle and O'Mahony 2005: 6). However this linkage is not robust. "Subsequent analysis finds a parabolic relationship – countries with highly diverse and homogeneous populations are remarkably stable (Collier and Hoeffler 2000 in Siegle and O'Mahony 2005: 6). In the latter, no threat from a competing group is felt; in the former, no one group is large enough to impose its will on the others and the mutual recognition of this reality leads to greater inter-ethnic assimilation. The greatest threat of ethnic conflict comes from societies where there is a dominant group comprising between 45-90 percent of the population. In these cases, minority groups fear they will be permanently excluded from politics and are inherently vulnerable to discrimination. At the same time, they are large enough to assert their priorities and be perceived as a threat to the majority. This is consistent with studies showing that societies with more concentrated minority populations are more susceptible to ethnic conflict" (Saideman and Ayres 2001 and Gurr 1993 in Siegle and O'Mahony 2005: 6). "Democracies that use proportional representation are found to be particularly effective at reducing ethnic tensions, even in societies with significant minority ethnic group concentrations" (Saideman et al. 2002 in Siegle and O'Mahony 2005: 6).

Federal and unitary states differ significantly in how they approach decentralisation in ethnically diverse societies. In unitary states, governments may tend to use decentralisation as a tool for eroding ethnic identity and solidarity. Federal states, in contrast, explicitly recognise the rights of ethnic groups in the belief that accommodation augments greater political stability and national unity (Schou and Haug 2005 in Siegle and O'Mahony 2005: 6). "Empirical comparisons find that minorities in federalist states were significantly less likely to engage in violence and that federal states experience half the number of armed rebellions compared to unitary states" (Bermeo 2005 in Siegle and O'Mahony 2005: 6). Similarly, Saideman et al. (2002 in Siegle and O'Mahony 2005: 6) find that federalism is associated with more protest – but less rebellion. Nigeria and India

are also cited as examples of countries with large numbers of ethnic minorities, where federalism is credited with reducing conflict" (Siegle and O'Mahony 2005: 6).

The literature on decentralisation in post-conflict environment is limited. A rationale for pursuing decentralisation in such political environments is that "it represents an opportunity to break away from what are often highly centralised and repressive power structures of a recently displaced regime. Decentralisation in post-conflict setting is seen as a way to guard against attempts to reassert this monopoly" (Siegle and O'Mahony 2005: 9). Provision of states and federalism are often recommended and negotiated to address the identity and ethnic issues, however, such an arrangement does not guarantee to bring the government closer to the people. Such misconceptions comprise one of the potential dangers to decentralised local governance. It can be seen in many Indian states, for example. The provision of state/provincial government may not necessarily fulfil the demand of decentralised governance. Creating several state/provincial governments may create a number of centres instead of one (i.e. Kathmandu in Nepal's case), and these may tend to accumulate power – against the principle of subsidiarity - decentralisation. Therefore, devolution of power to the lowest tier of participatory local self-governance and establishing a strong social accountability system at the local level are fundamentals to either unitary or federal system in order to guarantee grassroots democracy.

As democracy has swept throughout the world as a basic value and framework of governance over the past three decades, decentralisation is increasingly coming to be seen as a fundamental democratic principle. "It is not enough for people simply to be able to choose their national leaders in periodic, free, and fair elections. In countries of moderate to large size, a good democracy requires that people be able to elect their own local leaders and representatives, and that these local governments have some real power to respond to the needs of the people. In short, decentralisation is increasingly being demanded from below, through pressure from the grassroots, and is embraced for its potential to enhance the depth and legitimate democracy" (Diamond 2004: 1-2).

Fukuda-Parr and Ponzio (2002: 117 in Adhikari 2006: 67) note: "Democratic governance needs to be underpinned by a political regime that guarantees civil and political liberties as human rights and that ensures participation of people and accountability of decision makers." They further advocate for meaningful devolution of authority to local units of governance that are accessible and accountable to the local citizenry which enjoy full political rights and liberty (Blair 2000: 21 in McGee et al. 2003: 7 in Adhikari 2003: 67). "It embodies the aspiration of making government at local level more responsive to citizens and more effective in service delivery through building participation and accountability" (McGee et al. 2003: 7 in Adhikari 2003: 67).

Gautam (2007) argues self-governance from the perspectives of quality of life. He notes, "Improving quality of life is possible only through strong local-self governance". He notes, "If the goal of a government is to serve the citizens aspiring for improved quality of life, then who would serve them better than themselves?" He further notes, "Self-governance, therefore, should be pursued within the framework of making various aspects of improved quality of life accessible and affordable to the people". In his definition, basic indicators of improved quality of life are better standards of living, healthcare, education, employment opportunity, social security and political stability (Gautam, 2007).

Federalism is often accompanied by decentralisation, but it is not a necessary condition for decentralisation, nor is decentralisation a sufficient condition for federalism (UNDP 2002: 4). In short, the federal system itself is not sufficient in culturally, ethnically and geographical diverse Nepal. There should be the provision of strong local self-governance at the grassroots level, nearest possible to the people with wider political and citizen participation. These are important structures to be adopted that helps Nepal to be united in the real sense, judiciously managing the issues of regional identity and ethnicity. However, designing a successful federal system is a complex undertaking and there are many political and socio-economic questions and critical

issues—which are yet to be explored—that go far beyond how the nation should be divided. A few critical issues have to be negotiated while delineating the territory and defining the federal structures. These critical issues include, but are not limited to: a) political representation, b) resource distribution, c) devolution and the different levels, d) geographical access, e) ethnicity and identity related issues, etc. These are to be negotiated and structured by the Nepalese people through a democratic process (referendum for example) based on in-country learning and other countries' experiences. Then it will provide the means to hold Nepal together permanently, democratically, and peacefully.

Some political demands of the political parties, different ethnic and regional groups go beyond the mandate of the current transitional government, which has a single mandate to conduct the election of the Constituent Assembly in a free and fair manner. If a fundamental political decision is taken outside the rules of the democratic game and beyond the legitimate view of the public, people lose the precious opportunity to exert an influence on the major political decisions that influence restructuring of the state. However, the current political issues open avenues for discussion towards restructuring the state, which is the clear mandate of the popularly elected Constituent Assembly.

3. Concluding Remarks

Decentralisation has not only emerged as a highly popular strategy for improving public sector efficiency, responsiveness, and accountability in the developing world, but also a strategy for social and political stability.

In a thorough review of the literature, Schou and Haug (2005 in Siegle and Patrick 2006: 7) conclude that decentralisation fulfils a conflict-mitigation role "when it (i) broadens popular participation, including minority groups, (ii) brings sub-national groups into a bargaining process with the government, (iii) increases state legitimation through broadened local popular participation, (iv) establishes state outreach and control in remote areas, (v) builds trust between groups that participate in local governance institutions, and (vi) redistributes resources between regions" (Schou and Haug 2005 in Siegle and Patrick 2006: 7).

Schou and Haug also point out the conflict potential risks of decentralisation "when (i) it increases competition between local and national power-holders. This may entail sub-national actors using decentralised resources for political mobilisation, including the capacity of groups to break away. In response, the central government may attempt to undermine devolved powers to regain authority; (ii) lacking central government oversight, it increases interregional conflict, particularly in the reallocation of resources between regions participating demands in resource-rich regions for separation" (Schou and Haug 2005 in Siegle and Patrick 2006: 7).

On one hand, a local government closer to the citizens with a clearly established social accountability mechanism at the local level promotes citizens' confidence in the potential benefits of democracy. On the other hand, this is an effective way of political and ethnic conflict resolution in the long run. Popular political slogans at the macro level increase the level of expectation of the people, which cannot be addressed without promoting grassroots democracy. Democracy is the only way of mitigating conflict in the long run and strengthening the national dignity and integrity.

The contemporary literature (Cheema and Maguire 2002: 26-32, Fukuda-Parr and Ponzio 2002: 120 in Adhikari 2006: 67) highlights the following distinct advantages of democratic governance over authoritarian regimes. These are specifically relevance in the context of conflict resolution and strengthening democracy at all levels.

1. Democracies are better able to manage conflicts and avoid violent political change because they provide opportunities for the people to participate in the political process of the country.
2. Democracies also contribute to political stability and the status of human security because open space for political contests allows more peaceful resolution of conflict. Fukuda-Parr and Ponzio (2002: 120) give evidences of the years between 1950 and 1990 that riots and demonstrations were more frequent in democratic countries, but these were much less destabilising than in dictatorships. Dictatorships are also more prone to war. They have, for example, experienced war every 12 years compared with every 21 years in democracies.
3. Democracies are better able to avoid threats to human survival because of checks by the opposition parties, uncensored criticism of public policies and the fear of being voted out of office.
4. Democratic system increases citizens' access to public goods and services. Democracies lead to greater awareness of social development concerns including health, education, rights of women and minorities. This makes governance more efficient and responsive to local needs.
5. Through the local government structures, democratic governance makes it possible to distribute resources in an equitable, transparent and accountable manner.

6. Democratic governance can also reduce income disparities and provide equal opportunities by protecting the rights of minorities from the 'tyranny of the majority.' National institutions, affirmative action and legal standards are all tools of democratic governance that can help resolve income disparities among communities or help encourage more women to participate in the political process.

Democratic institutions and democratic processes give enough space to the people to have their voice heard. Moreover, open competition for power leaves politicians more likely to respond to the needs of ordinary people. The important assumptions behind democratic local governance are that local governments are familiar with local circumstances and they can better mobilise local stakeholders for common benefits. This leaves them in the best position to equitably distribute the benefits of public resources.

In conclusion, participatory democracy at the local level holds great promise as a way of facing the major socio-politico challenges as well as meeting the ever-growing needs and demands of the people in the changed pro-democratic political context of Nepal. This is linked to the challenges arising from local economic and social needs and the overall restructuring of Nepalese society. While internalising the relationship between democracy and societal welfare is an extremely important element of a successful democratic regime, it has hardly been the primary governance focus in Nepal. Therefore, these issues have been surfacing in the current political demands of *Madhesis*, *Janajatis* and other groups. The question arises what should then be the solution? The single solution is the promotion of grassroots democracy through devolution and participatory local-self governance that will lead to peaceful, prosperous and democratic Nepal.

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[1] This article was written in the very fluid political context of Nepal, when the Interim Constitution, 2007 was approved by the reinstated parliament (January, 2007) and the Communist Party of Nepal (Maoist) joined the Interim Parliament (January, 2007) in the process of joining the interim government to be formed in a few weeks.

[2] These are the peoples who live in the southern part of Nepal commonly called the Terai or commonly known as *Madhesh*, which is connected to the Indian border.

3 These are ethnic or social groups with their own mother tongue, an area and religious traditions.

[4] *Dalits* are people from so-called untouchable castes in the Hindu caste system.

[5] A major political change took place in Nepal from April 2006 onwards when the King relinquished political control and the Communist Party of Nepal (Maoist) starting process to enter into competitive politics.

[6] The terms - Local Bodies (LBs), Local Government Units (LGUs) and Local Governments (LGs) are interchangeably used in this article to describe the elected units of local government. In the Nepalese context, these denote District Development Committee (DDC), Village Development Committee (VDC) and Municipality.